



**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JACK E. TUCKER,

*Petitioner,*

vs.

STATE OF NEVADA,

*Respondent.*

3:08-cv-00061-BES-VPC

ORDER

Petitioner has filed a petition for an emergency writ of mandamus and prohibition against the State of Nevada. Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the petition. The *pro se* petition further is not on an approved petition or complaint form. Moreover, petitioner may not sue the State of Nevada in federal court. State sovereign immunity under the Eleventh Amendment bars suit in federal court against a State regardless of whether the relief sought is equitable relief as opposed to monetary damages. See, e.g., *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89, 100-01, 104 S.Ct. 900, 908, 79 L.Ed.2d 67 (1984).

Due to the multiple defects presented, the Court will dismiss the petition without prejudice to the filing of a new action on a proper complaint or petition form accompanied by a properly completed pauper application or payment of the filing fee. The emergency designation on the petition notwithstanding, the petition alleges no specific facts that would suggest that petitioner will suffer irreparable injury if he does not obtain immediate review of the statutory issue presented.

1 IT THEREFORE IS ORDERED that this action is DISMISSED without prejudice to the  
2 filing of a new action with a complaint or petition on the required form that is accompanied by  
3 either the required filing fee or a properly completed application to proceed *in forma pauperis*.  
4 The Clerk of Court shall enter final judgment accordingly.

5 IT FURTHER IS ORDERED that the Clerk of Court shall send petitioner a copy of an  
6 *in forma pauperis* application form for incarcerated persons, the instructions for same, a blank  
7 Section 1983 complaint form, a blank Section 2254 petition form, and the papers that he filed  
8 in this action.

9 DATED: This 17<sup>th</sup> day of March, 2008.

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BRIAN SANDOVAL  
United States District Judge